

SENATE BILL No. 261

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-37-13-6; IC 35-38-4-2.

Synopsis: Appeals by the attorney general. Specifies the circumstances under which the state can appeal in criminal and juvenile delinquency cases.

Effective: July 1, 2015.

Young R Michael

January 7, 2015, read first time and referred to Committee on Corrections & Criminal Law.



First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 261

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 31-37-13-6 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2015]: **Sec. 6. The right of the state to appeal in a juvenile**
- 4 **delinquency case is governed by IC 35-38-4-2.**
- 5 SECTION 2. IC 35-38-4-2 IS AMENDED TO READ AS
- 6 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. ~~Appeals to the~~
- 7 ~~supreme court or to the court of appeals; if the court rules so provide;~~
- 8 ~~may be taken by the state in the following cases:~~
- 9 (1) ~~From an order granting a motion to dismiss an indictment or~~
- 10 ~~information.~~
- 11 (2) ~~From an order or judgment for the defendant; upon his motion~~
- 12 ~~for discharge because of delay of his trial not caused by his act; or~~
- 13 ~~upon his plea of former jeopardy; presented and ruled upon prior~~
- 14 ~~to trial.~~
- 15 (3) ~~From an order granting a motion to correct errors.~~
- 16 (4) ~~Upon a question reserved by the state; if the defendant is~~



acquitted:

(5) From an order granting a motion to suppress evidence, if the ultimate effect of the order is to preclude further prosecution:

(6) From any interlocutory order if the trial court certifies and the court on appeal or a judge thereof finds on petition that:

(A) the appellant will suffer substantial expense, damage, or injury if the order is erroneous and the determination thereof is withheld until after judgment;

(B) the order involves a substantial question of law; the early determination of which will promote a more orderly disposition of the case; or

(C) the remedy by appeal after judgment is otherwise inadequate:

(a) This section applies to appeals in all criminal and juvenile delinquency cases.

(b) The state may take an appeal to the appellate courts in the same manner as the defendant or child alleged to be a delinquent. However, if the defendant is acquitted or the juvenile is not found to have committed a delinquent act, the state may appeal only a reserved question.

(c) The following orders are final judgments and subject to immediate appeal:

(1) An order discharging a defendant or child alleged to be a delinquent child.

(2) An order dismissing one (1) or more counts of an indictment, information, or petition alleging juvenile delinquency.

(3) An order that has the effect of preventing further prosecution on one (1) or more counts.

